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PUBLIC SERVICE
COMMISSION

January 24, 2005

Elizabeth O' Donnell, Esquire
Kentucky Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, Kentucky 40601

Re: Case No. 2005-00006
Jackson v. Dialog Telecommunications.

Dear Ms. O'Donnell:

Pursuant to 807 KAR 5:001, Section 12, please accept this letter as Dialog Telecommunication's Inc.'s ("Dialog") response to the above referenced complaint. As discussed below, Dialog is issuing a credit to the customer. However, this dispute involves domestic interstate services not subject to the subject matter jurisdiction of the Kentucky Public Service Commission. Accordingly, we request that this letter be treated as a motion to dismiss the complaint.

I. Facts.

Dialog currently provides local and intraLATA long distance service to the complainant, Shirley Jackson. Prior to November 11, 2004, Dialog also provided interLATA long distance service pursuant to the terms of its applicable Kentucky tariff and its terms and conditions for interstate services.

During the one month billing cycle ending October 26, 2004, Dialog carried 9807 minutes of interstate long distance from Ms. Jackson's line. The *average* call duration was 110 minutes. Some calls were more than *five hours* long. For the

period in question, Ms. Jackson's usage was highest among Dialog's entire base of residential customers.

The usage patterns above are completely inconsistent with ordinary residential usage. Rather, the usage pattern was more consistent with business usage, excessive usage for data, Internet, resale, or for call aggregation. Such uses are not permitted under Dialog's terms and conditions of service for residential service.¹ After review of the usage, Dialog determined this customer had violated its terms and conditions for interstate usage, and terminated the interLATA service.

Ms. Jackson's complaint suggests that if Dialog places a limit on usage it should tell the customer what the limit will be. Dialog agrees, and as discussed above, discloses its terms of interstate service in the manner required by the FCC. Furthermore, while Dialog and many other carriers market certain toll services as "unlimited," customers generally understand that this inexpensively priced service is intended for typical residential usage, not as a substitute for interstate private line service between two locations. However, after reviewing Ms. Jackson's account, Dialog is issuing a \$25 credit, representing the advance billing for interLATA long distance for the month of November. This will appear as a credit on the account for the month of February.

II. Commission Jurisdiction.

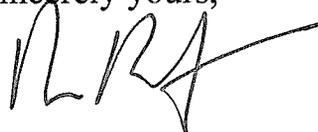
This complaint concerns interstate calls completed by Dialog under authority granted by the Federal Communications Commission ("FCC"). The Kentucky Commission does not adjudicate complaints involving calls subject only to the jurisdiction of the FCC. *Chiu v. AT&T Communications*, Case No. 2003-00247 (July 1, 2003) (dismissing complaint related to international calls "on jurisdictional grounds"). Dialog requests that this complaint be similarly dismissed.

¹ Pursuant to the applicable FCC regulation, 47 CFR § 42.10, Dialog's terms and conditions for interstate services are available on its website, at http://www.calldialog.com/policies_terms/product_terms.htm

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Please indicate receipt of this filing by placing your file-stamp on the extra copy and returning to me in the enclosed, self-addressed, stamped envelope.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'DLRB', with a long horizontal flourish extending to the right.

Douglas F. Brent

cc: Ms. Shirley Jackson
1201 Sunny Side Drive
Mayfield, KY 42066

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